



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 10, 1996

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR96-1847

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101773.

The Texas Department of Public Safety (the "department") received a request for the information that the department compiled during its investigation of a particular motor vehicle accident. You state that the department has already released the photographs of the accident scene. However, you contend that all of the other information relating to the accident is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. You have submitted a representative sample of the information to this office for review.¹

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996).² However, the Open Records Act's exceptions do not, as a general rule, apply to information made public by other statutes. Open Records Decision

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report.

No. 525 (1989).

We note that the information submitted to this office includes an accident report. Access to accident reports is governed by law other than the Open Records Act. The Seventy-fourth Legislature, without reference to the repeal and codification of V.T.C.S. article 6701d, amended section 47 of article 6701d, V.T.C.S., relating to the disclosure of accident reports.³ Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414. As amended, section 47(b)(1) places certain restrictions on the general public's access to "all accident reports made as required by [V.T.C.S. art. 6701d] or [V.T.C.S. art. 6701h]." Specifically, section 47(b)(1) provides that a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request *only* to, among others, a person who provides the law enforcement agency with two or more of the following: (1) the date of the accident, (2) the name of any person involved in the accident, or (3) the specific location of the accident. Section 47(a) states that, except as provided by section 47(b), these accident reports are privileged and for the confidential use of the Department of Public Safety and agencies who use the reports for accident prevention purposes. The requestor has provided you with the date and the specific location of the accident about which he is inquiring. Thus, section 47(b) entitles him to a copy of the accident report.

Also included in the information submitted to this office is an autopsy report. Section 11, article 49.25 of the Code of Criminal Procedure provides as follows:

The medical examiner shall keep full and complete records properly indexed, giving the name if known of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate. The full report and detailed findings of the autopsy, if any, shall promptly be delivered to the proper district, county, or criminal district attorney in any case where further investigation is advisable. Such records shall be public records.

Code Crim. Proc. art. 49.25, § 11. The Lubbock County Medical Examiner performed an autopsy on the individual who died in the motor vehicle accident that is the subject of the request. Charges of criminally negligent homicide are pending as a result of the death. Pursuant to section 11, the autopsy report is a public record and must be released to the requestor.

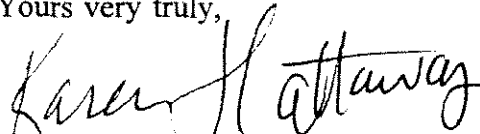
All of the information at issue other than the accident report and the autopsy report is

³Effective September 1, 1995, articles 6701d and 6701h were repealed and codified as part of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71; see Trans. Code § 550.065 (release of accident reports). The legislature did not intend a substantive change of the law but merely a recodification of existing law. Act of May 1, 1995, 74th Leg., ch. 165, § 25, 1995 Tex. Sess. Law Serv. 1025, 1871. The repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and the amendment is preserved and given effect as part of the code provision. Gov't Code § 311.031(c). Thus, the amendment of section 47 of article 6701d, V.T.C.S., in House Bill 391 remains in effect as current law and may be found following section 550.065 of the Transportation Code. See also Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414.

excepted from disclosure under section 552.108. Accordingly, you may withhold that information from disclosure, or you may choose to release to the requestor any of the information that is not otherwise confidential by law. *See* Gov't Code § 552.007.⁴

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 101773

Enclosures: Submitted documents

cc: Mr. Chris D. Parker
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(w/o enclosures)

⁴Having concluded that section 552.108 permits you to withhold from the requestor all information that is not public by statute, we need not address your claim that section 552.103 excepts the information from disclosure.